

rights to the use of water for irrigation purposes within the drainage area of Brush Creek and all its tributaries, a water source within the above entitled proceeding. In recommending this proposed determination of water rights, the State Engineer has adhered to the principles of water appropriation as set forth in the Constitution and Statutes of the State of Utah and as pronounced by the decisions of the Supreme Court of the State of Utah, by which constitution, statutes and decisions, it is declared that beneficial use shall be the basis, the measure and the limit of the right to the use of water.

4. That diligence rights from surface water sources are those which were initiated by beneficial use prior to 1903 and were obtained and established in accord with the intent of the appropriator and the laws of the State of Utah then existent; that diligence rights from underground water sources are those which were initiated and fully attained by beneficial use prior to March 22, 1935. Other rights to the use of water, either pending or perfected, must have been initiated by an application filed in the office of the State Engineer. Perfected rights are represented by a certificate of appropriation issued by the State Engineer and details of such rights are included in this proposed determination for confirmation by the Court. Pending applications are simply permits to put the water to beneficial use within a specified time or an extension thereof. In several special instances, the water user has claimed and has substantiated a right based upon an adverse use and the details of such right are also included herein for confirmation by the Court. In preparing the details of the rights as listed in this proposed determination, it has been the rule to consider a flow of water as being only a rate of withdrawal from the underground supply and/or surface source; the real appropriation is the quantity or volume of water actually withdrawn or diverted in acre feet during a calendar year.

5. In the instance of irrigation, the diversion requirements have been considered to be 3.70 acre feet per acre per calendar year, regardless of the source of supply. The irrigated land lies generally between 5000 ft. and 6000 ft. elevation. Annual rainfall is about 9 inches of which nearly 2½ inches comes during the frost-free period of June 1 through Sept. 16. Consumptive use or evapotranspiration from the land and hay crops is considered to be a total of 1.30 acre feet per acre per growing season of which